



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R07-OAR-2021-0913; FRL-9351-02-R7]**

**Air Plan Approval; Air Plan Approval; State of Missouri; Revised Plan for 1978 and 2008 Lead NAAQS**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve the State of Missouri's request to remove its State Implementation Plan (SIP) for maintaining the 1978 Lead National Ambient Air Quality Standards (NAAQS) in portions of Iron County, Missouri, surrounding the former Glover smelter, and replace the maintenance plan with a plan for continued attainment of the 2008 Lead NAAQS regardless of ownership and/or operational status of the Glover facility.

**DATES:** This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2021-0913. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available

docket materials are available through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Doolan, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551-7719; email address: [doolan.stephanie@epa.gov](mailto:doolan.stephanie@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document "we," "us," and "our" refer to EPA.

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### **I. What is Being Addressed in this Document?**

The EPA is taking final action pursuant to section 110(1) of the CAA, to amend the Missouri SIP to approve Missouri's SIP revision request as submitted to the EPA on October 7, 2020. The EPA's final approval is based on its review of the state's submittal which is described in detail in the proposal (87 FR 5761, February 2, 2022).

For the reasons described in detail in the EPA's February 2, 2022 proposed approval, the EPA finds that Missouri's 2020 plan and 2020 Consent Agreement, as submitted to the EPA on October 7, 2020, as a replacement to the 2004 plan and 2003 Settlement Agreement, does not interfere with attainment or

maintenance of the NAAQS, and thus satisfies CAA section 110(1). If future activities include demolition or deconstruction of any of the remaining structures, the 2020 Plan and 2020 Consent Agreement provide for re-instating air monitors to ensure that deconstruction or demolition of the facility, activities that are known to re-entrain lead dust, do not lead to violations of the 2008 Lead NAAQS, and thereby protect human health and the environment. All the requirements of the 2020 Consent Agreement are also imposed on Doe Run's successors in the event of a future property transaction.

Upon the effective date of this final rule Doe Run may cease operating its ambient air monitors at the Glover facility. For the reasons discussed in detail in the EPA's proposal, lead emissions from the facility are not expected to increase provided that activities remain the same and Doe Run (and any future owner) complies with the requirements of the state and federally enforceable 2020 Consent Agreement. In the event that activities at the facility do change, the 2020 Consent Agreement provides a process for resuming monitoring should certain lead-emitting activities occur at the facility. This requirement to resume monitoring provides an additional measure to ensure continued attainment of both the 1978 NAAQS and the 2008 NAAQS.

## **II. Have the Requirements for Approval of a SIP Revision Been Met?**

The State's submission met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The

submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained in the February 2, 2022 proposal, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

The EPA's proposed approval and supporting information contained in the docket were made available for public review and comment from February 2, 2022 to March 4, 2022. No comments were received.

### **III. Environmental Justice Concerns**

This action addresses a plan for continued attainment of the 2008 Lead NAAQS for the Glover, Missouri area. In its SIP revision request, Missouri has demonstrated that the air quality in the Glover area is attaining the 2008 Lead NAAQS and will ensure continued attainment of the NAAQS as the benchmark for protection of human health. Replacing the 2004 maintenance plan and 2003 Settlement Agreement with the 2020 Plan and 2020 Consent Agreement provides broader provisions for the activities, including deconstruction and demolition, that are most likely to cause a future NAAQS violation. For these reasons, EPA believes final approval does not result in disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples.

### **IV. What Action is the EPA Taking?**

The EPA is approving Missouri's request to strengthen the

State Implementation Plan (SIP) by removing its maintenance plan and associated Consent Agreement for the 1978 Lead NAAQS for the former Doe Run Glover lead smelter in Iron County, Missouri, and replacing it with a plan for continued attainment of the 2008 Lead NAAQS and a new Consent Agreement.

## **V. Incorporation by Reference**

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Missouri Source-Specific Orders described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

Therefore, these materials have been approved by the EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, and are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>1</sup>

Also, in this document, as described in the amendments to 40 CFR part 52 set forth below, the EPA is removing provisions

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<sup>1</sup> 62 FR 27968 (May 22, 1997).

of the EPA-Approved Missouri Source-Specific Permits and Orders from the Missouri State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51.

## **VI. Statutory and Executive Order Reviews**

Under the Clean Air Act (CAA), the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- This action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The basis for this determination is contained in section III of this action, "Environmental Justice Concerns."
- In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt

tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

- This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5
- Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, and Lead.



Dated: \_\_\_\_\_

April 21, 2022.

Meghan A. McCollister,  
Regional Administrator,  
Region 7.

For the reasons stated in the preamble, the EPA amends 40  
CFR part 52 as set forth below:

**PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as  
follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart AA-Missouri**

2. In §52.1320:

a. In the table in paragraph (d):

i. Remove and reserve paragraph (d) (22) and add paragraph (d) (36) .

b. In the table in paragraph (e):

i. Remove and reserve paragraph (e) (49) and add paragraph (e) (83) .

The additions read as follows:

**§52.1230 Identification of plan.**

\* \* \* \* \*

(d) \* \* \*

**EPA-Approved Missouri Source-Specific Permits and Orders**

Name of source	Order/Permit Number	State effective date	EPA Approval date	Explanation
* * * * *				
(22) Reserved				
* * * * *				
(36) Doe Run Glover Facility	Consent Agreement APCP-2020-002	6/2/2020	[insert date of publication in the Federal Register], [insert Federal Register citation]	

(e) \* \* \*

**EPA-Approved Missouri Nonregulatory SIP Provisions**

<b>Name of nonregulatory SIP provision</b>	<b>Applicable geographic or nonattainment area</b>	<b>State submission date</b>	<b>EPA approval date</b>	<b>Explanation</b>
* * * * *				
(49) Reserved				
* * * * *				
(83) Glover Lead Plan for Continued Attainment of the 2008 Lead NAAQS	Iron County (part) within boundaries of Liberty and Arcadia Townships	10/7/2020	<b>[insert date of publication in the Federal Register], [insert Federal Register citation]</b>	[EPA-R07-OAR- 2021-0913; FRL-9351-02- R7].

[FR Doc. 2022-08918 Filed: 4/26/2022 8:45 am; Publication Date: 4/27/2022]